

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA,) **Case No. 4:23-mj-00361-BP**
) **(Merged into 4:23-cr-193-P-3)**
Plaintiff,)
) Fort Worth, Texas
v.) May 10, 2023
) 2:00 p.m.
JAMES PEABODY (04),)
) INITIAL APPEARANCE
Defendant.)
_____)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE HAL R. RAY, JR.,
UNITED STATES MAGISTRATE JUDGE.

APPEARANCES:

For the Government: Nancy Larson
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1 FORT WORTH, TEXAS - MAY 10, 2023 - 2:18 P.M.

2 THE CLERK: All rise.

3 THE COURT: Thank you. Please be seated.

4 The Court calls for initial appearance Cause No. 4:23-mj-
5 361, United States of America versus James Peabody. Mr.
6 Peabody is Defendant 04. Cause No. 4:22-mj-929 [sic], United
7 States of America versus Amanda Reyes. Cause No. 4:23-mj-357,
8 United States of America versus Marquez Dequan Davis. And
9 Cause No. 4:23-mj-362, United States of America versus Neil
10 Divers.

11 The purpose of this hearing is to make sure that each of
12 you understands the charges that have been brought against you
13 and that you understand your rights.

14 I must inform you that you have the following
15 constitutional rights.

16 You have the right to remain silent and to not make any
17 statement at all. You are not required to make any statement
18 concerning any of the charges against you, and if you have
19 made a statement you're not required to say anything further.
20 And if you start to make a statement, you may stop at any
21 time.

22 However, any statement that you do make or sign can be
23 used against you in this case or in any other proceeding.

24 You have the right to an attorney at every stage of the
25 proceeding, and if you cannot afford an attorney I will

1 appoint one for you at no charge to you.

2 I'll also inform you that if you're not a citizen of the
3 United States an attorney for the Government or a federal law
4 enforcement officer will notify a consular officer from your
5 country of nationality that you've been arrested, if you so
6 request, or will make any other consular notification required
7 by treaty or other international agreement.

8 I understand that Mr. Divers has retained counsel for
9 purposes of the hearing today, and I have before me an
10 entrance of appearance by Mr. Navid Alband.

11 MR. ALBAND: Yes, sir.

12 THE COURT: Hello, Mr. Alband. How are you?

13 MR. ALBAND: I'm doing well, sir.

14 THE COURT: As -- that's fine. Thank you.

15 As to the other Defendants, I have financial affidavits
16 that it looks like each of you has filled out. I need to ask
17 you some questions about these affidavits, and your answers
18 need to be under oath. So would Mr. Peabody, Ms. Reyes, and
19 Mr. Davis, if you would please stand at this time, raise your
20 right hands, and be sworn by the clerk.

21 (The Defendants are sworn.)

22 THE COURT: Thank you. Please be seated. The record
23 will reflect that Mr. Peabody, Ms. Reyes, and Mr. Davis swore
24 to tell the truth.

25 Mr. Peabody, let me ask you. Is the affidavit that I'm

1 holding up here the one that you filled out?

2 DEFENDANT PEABODY: Yes, sir.

3 THE COURT: Is that your signature at the bottom of
4 the page?

5 DEFENDANT PEABODY: Yes.

6 THE COURT: Is the information contained in this
7 affidavit true and correct?

8 DEFENDANT PEABODY: Yes.

9 THE COURT: Is it complete as of today?

10 DEFENDANT PEABODY: (faintly) Yes.

11 THE COURT: It shows here that you have a home and
12 you've put the approximate value of it. Do you own that home
13 outright or do you have a lien against it? Your mortgage?

14 DEFENDANT PEABODY: It's mortgage.

15 THE COURT: Okay. Do you have any idea what your --
16 roughly what your equity is in the home?

17 DEFENDANT PEABODY: I'm not sure. I have to check on
18 it.

19 THE COURT: Okay. Ms. Reyes, is the financial
20 affidavit that I'm holding up now the one that you filled out
21 and signed?

22 DEFENDANT REYES: Yes, sir.

23 THE COURT: Is the information contained in this
24 affidavit true and correct?

25 DEFENDANT REYES: Yes, sir.

1 THE COURT: Is it complete as of today?

2 DEFENDANT REYES: Yes.

3 THE COURT: And then, Mr. Davis, let me ask you. Is
4 the financial affidavit that I have here the one that you
5 filled out and signed?

6 DEFENDANT DAVIS: Yes.

7 THE COURT: Is the information contained in this
8 affidavit true and correct?

9 DEFENDANT DAVIS: Yes.

10 THE COURT: Is it complete as of today?

11 DEFENDANT DAVIS: Yes.

12 THE COURT: Well, it does appear to the Court that
13 each of you is entitled to have a lawyer appointed to
14 represent you. Is there any reason why the Federal Public
15 Defender would be disqualified from representing Mr. Peabody
16 and Ms. Reyes?

17 MS. LARSON: No, Your Honor.

18 MR. WEINBEL: No, Your Honor.

19 THE COURT: Very well. Then, Mr. Peabody and Ms.
20 Reyes, I will appoint the Federal Public Defender to serve as
21 the lawyer for you in your case. Mr. Chris Weinbel is an
22 Assistant Federal Public Defender, he's seated there next to
23 you, and he will serve as your lawyer.

24 Mr. Davis, I'm going to appoint Mr. Nick Davis, who's an
25 attorney here in Fort Worth and is a member of the Court's

1 Criminal Justice Act panel of lawyers, to serve as your
2 attorney.

3 Now, at this time I want to enter the following order,
4 both written and oral, in Mr. Peabody, Ms. Reyes, and Mr.
5 Davis's case.

6 Pursuant to Federal Rule of Criminal Procedure 5(f),
7 counsel for the United States is ordered to comply with its
8 disclosure obligations under *Brady v. Maryland* and its
9 progeny. Failure to do so may result in the dismissal of
10 charges, exclusion of evidence, adverse jury instructions,
11 contempt proceedings, and sanctions.

12 Ms. Larson, are you representing the Government in these
13 cases?

14 MS. LARSON: I'm representing in Mr. Peabody. And is
15 it Ms. Montez and --

16 MR. SMITH: I am here for Reyes and Davis, Your
17 Honor.

18 THE COURT: Let me ask both of you, then. As to Mr.
19 Peabody's case, Ms. Larson, do you acknowledge the
20 Government's obligations under Rule 5(f)?

21 MS. LARSON: I do, Your Honor.

22 THE COURT: And Mr. Smith, on Ms. Reyes and Mr.
23 Davis's cases, do you acknowledge the Government's obligations
24 under Rule 5(f)?

25 MR. SMITH: Yes, Your Honor.

1 THE COURT: Very well. Thank you.

2 Now, as to Mr. Peabody, Ms. Reyes, and Mr. Davis, it would
3 be appropriate at this time for the Assistant United States
4 Attorney in your case to go over the charges that have been
5 brought against you, or you may waive the reading of the
6 charges. It's up to you. What's your preference?

7 DEFENDANT PEABODY: Waive.

8 THE COURT: Mr. Peabody, you waive the reading of the
9 charges? Is that right?

10 DEFENDANT PEABODY: Yes.

11 THE COURT: Ms. Reyes, what's your preference?

12 DEFENDANT REYES: Waive.

13 THE COURT: And Mr. Davis?

14 DEFENDANT DAVIS: Waive.

15 THE COURT: All right. Do you understand what it is
16 the Government says that you've done wrong, Mr. Peabody?

17 DEFENDANT PEABODY: I understand.

18 THE COURT: All right. Ms. Reyes, do you understand?

19 DEFENDANT REYES: Yes, sir.

20 THE COURT: And Mr. Davis, do you?

21 DEFENDANT DAVIS: Yes, sir.

22 THE COURT: Now, the Government has filed a motion
23 asking that each of you be detained pending a detention
24 hearing. And since each of you is charged by a criminal
25 complaint, you're entitled, in addition to a hearing on the

1 Government's motion for pretrial detention, you're entitled to
2 a preliminary hearing, which is a hearing to determine whether
3 there's probable cause to believe that a criminal offense has
4 occurred as alleged in the complaint in your case and that you
5 committed that offense.

6 I will set a hearing on the Government's motion for
7 pretrial detention at the same time as a preliminary hearing
8 in your case.

9 Mr. Weinbel, does Mr. Peabody and -- do Mr. Peabody and
10 Ms. Reyes wish to have a detention hearing and a preliminary
11 hearing?

12 MR. WEINBEL: Yes, Your Honor.

13 THE COURT: All right. And Mr. Davis, what about
14 your client, Mr. Marquez Davis?

15 MR. DAVIS: We do, Your Honor.

16 THE COURT: All right. Very well. Then, Mr.
17 Peabody, I'll set the detention and preliminary hearing in
18 your case for Monday, May 15th, at 10:00 a.m. before me. Ms.
19 Reyes, I'll set the detention and preliminary hearing in your
20 case also for Monday, May 15th, at 10:30. And Mr. Davis,
21 we'll set your detention and preliminary hearing also for
22 Monday, May 15th, at 11:00 a.m.

23 Each of you is currently in the custody of the United
24 States Marshal, and it's appropriate that you remain in that
25 custody pending your detention and preliminary hearings.

1 Is there anything else we need to take up in connection
2 with Mr. Peabody's case today, Mr. Weinbel?

3 MR. WEINBEL: No, Your Honor.

4 THE COURT: Anything on behalf of the Government, Ms.
5 Larson?

6 MS. LARSON: No, Your Honor.

7 THE COURT: Do we need to take up anything in
8 connection with Ms. Reyes' case, Mr. Weinbel?

9 MR. WEINBEL: No, Your Honor.

10 MR. WEINBEL: No, Your Honor.

11 THE COURT: Anything on behalf of the Government in
12 that case, Mr. Smith?

13 MR. SMITH: No.

14 THE COURT: Mr. Davis?

15 MR. DAVIS: No additional matters, Your Honor.

16 THE COURT: All right. What about for Mr. Davis,
17 Mr. Smith? Anything there?

18 MR. SMITH: No, Your Honor.

19 THE COURT: Very well. Then Mr. Peabody, Ms. Reyes,
20 and Mr. Davis, I'll remand you back to the custody of the
21 United States Marshal at this time, pending your preliminary
22 and detention hearings next Monday morning. We'll see you
23 all then.

24 MS. LARSON: Thank you, Your Honor.

25 THE COURT: Thank you, Ms. Larson.

(Proceedings concluded at 2:29 p.m.)

--oOo--

CERTIFICATE

I certify that the foregoing is a correct transcript from the electronic sound recording in the above-entitled matter.

/s/ Kathy Rehling

07/24/2023

Kathy Rehling, CETD-444
Certified Electronic Court Transcriber

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